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Date _____
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Clerk _____
Comm. Amdt. _____

Amendment No. 2 to HB0729

Fitzhugh
Signature of Sponsor

AMEND Senate Bill No. 202*

House Bill No. 729

by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated § 50-1-103, is amended by deleting the section in its entirety and substituting instead the following:

§ 50-1-103.

(a) As used in this section, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of labor and workforce development.

(2) "Department" means the department of labor and workforce development.

(3) "Illegal alien" means a person who is not entitled to lawful residence in the United States pursuant to the federal Immigration and Naturalization Act.

(4) "Lawful resident alien" means a person who is entitled to lawful residence in the United States pursuant to the federal Immigration and Naturalization Act.

(5) "Lawful resident verification information" means the documentation that is required by the United States department of homeland security when completing the employment eligibility verification form commonly referred to as the federal "Form I-9". Documentation that later proves to be falsified, but that at the time of employment satisfies the requirements of the "Form I-9", is lawful resident verification information.

(6) "License" means any certificate, approval, registration or similar form of permission required by law.

(7) "Person" means individual, corporation, partnership, association or any other legal entity.

(b) A person shall not knowingly employ an illegal alien or knowingly recruit or refer for a fee for employment an illegal alien.

(c) A person has not violated subsection (b) with respect to a particular employee if the person:

(1) Requested from the employee, received, and documented in the employee record lawful resident verification information consistent with employer requirements under the Immigration Reform and Control Act of 1986; and

(2) The lawful resident verification information provided by the person later proved to be falsified.

(d) A person has not violated subsection (b) with respect to a particular employee if the person verified the immigrant status of the person by using the federal electronic work authorization verification service provided by the United States department of homeland security pursuant to the federal Basic Pilot Program Extension and Expansion Act of 2003.

(e) If any state or local governmental agency, officer, employee or entity has reason to believe that a violation of subsection (b) has occurred, the agency, officer, employee or entity shall file a complaint with the department. Upon receipt of the complaint and upon reviewing clear and convincing evidence, the commissioner may conduct a contested case hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, on the question of whether such person has violated subsection (b). If the commissioner or the commissioner's designee determines that the person has violated subsection (b) and such violation occurred while the person was acting within the scope of practice of a license issued by the state of Tennessee or pursuant to title 67, chapter 4, the commissioner shall issue an order requiring the appropriate regulatory board or local government with respect to business licensure pursuant to title 67, chapter 4, to revoke, suspend, or deny the person's license. Enforcement is limited to those individuals who have training pursuant to Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g), as amended by the Homeland Security Act, Public Law 107-296, which authorizes the Secretary of Homeland Security to enter into written agreements with a state or any political division of a state so that qualified officers can perform

certain immigration enforcement functions. The commissioner shall state in its findings of fact and conclusions of law whether there have been previous violations of subsection (b).

(1) For the first violation of subsection (b), the commissioner shall order that the regulatory board or local government suspend the person's license until it is shown that all employees are lawful resident aliens.

(2) For a second violation of subsection (b) occurring within five (5) years from the issuance of the commissioner's first order, the commissioner shall order that the regulatory agency or local government suspend the license for one (1) year.

(3) For a third or subsequent violation of subsection (b) occurring within five (5) years from the issuance of the commissioner's first order, the commissioner shall order that the regulatory agency or local government to permanently revoke the license and the person shall be forever barred from doing business in the state of Tennessee.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect January 1, 2008, the public welfare requiring it.